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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,048	02/04/2002	Pieter Van Dine	A34662	4945
22930	7590	02/02/2004		EXAMINER
HOWREY SIMON ARNOLD & WHITE LLP BOX 34 1299 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004				COMAS, YAHVEH
			ART UNIT	PAPER NUMBER
				2834

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N .</b>	<b>Applicant(s)</b>
	10/067,048	VAN DINE, PIETER
	<b>Examin r</b>	<b>Art Unit</b>
	Yahveh Comas	2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 16 January 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) \_\_\_\_\_ is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_  
4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. The objection of drawing for failing to comply with 37 CFR 1.84(p)(5) has been withdrawn.
2. Applicant's arguments, see pages 2-7, filed 1/16/2004, with respect to claims 1-15 have been fully considered and are persuasive. The rejection of claims 1-15 has been withdrawn.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1, 3, 5, 9, 11, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Terada et al. U.S. Patent No. 5,990,247.

Terada disclose a composite lamina arrange comprising a first barrier comprising at least one layer of polymeric resin material containing reinforcing fibers (67), a strength element surrounding the first liquid barrier and including at least a layer of polymeric resin material (63) and a second liquid barrier surrounding the strength element and comprising at least one polymeric resin material containing reinforcing fibers (62). The first and second liquid barriers include polymeric fibers.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terada et al. U.S. Patent No. 5,990,247.

Terrada discloses the claimed invention except for composite lamina arrangement further includes a strength element surrounding the second liquid barrier including at least one layer of polymeric resin material containing high strength, high modulus fibers extending continuously around the circumference of the motor component. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to includes a strength element surrounding the second liquid barrier including at least one layer of polymeric resin material containing high strength, high modulus fibers extending continuously around the circumference of the motor component, since it has been held that mere duplication of the essential working parts of device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

7. Claim 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terada et al. U.S. Patent No. 5,990,247 in view of Monette et al. U.S. Patent No. 6,240,971.

Terada discloses the claimed invention except for a strength element including a first layer of polymeric resin material containing continuous fibers extending in a first direction and a second layer of polymeric resin material containing continuous fibers in a second direction at an

angle to the first direction. However, Monette disclose a simple pipe construction of a two layer laminated pipe structure having an inner layer (a) comprising embedded fibers disposed at a 90° angle with respect to the longitudinal pipe axis in fixed contact with an outer layer (b) comprising embedded fibers disposed at a different angle, e.g. about +/-40° with respect to the longitudinal pipe axis (see fig. 1) for the purpose of having a composite structure with an increased stiffness and containment strength.

Therefore, it would have been obvious to one having skill in the art at the time the invention was made to modify Terada's invention and made a two layer laminated pipe structure having an inner layer (a) comprising embedded fibers disposed at a 90° angle with respect to the longitudinal pipe axis in fixed contact with an outer layer (b) comprising embedded fibers disposed at a different angle, e.g. about +/-40° with respect to the longitudinal pipe axis for the since this would had been desirable for having a composite structure with an increased stiffness and containment strength as discloses by Monette.

8. Claim 6-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Terada et al. U.S. Patent No. 5,990,247 in view of Junpei et al. U.S. Patent No. 3,577,024.

Terada discloses the claimed invention except for the composite lamina arrangement has an exposed surface formed with a corrugation pattern to control the flow of liquid through the space between the rotor and the stator. However, Junpei disclose a rotor (30) with a corrugation pattern containing ridges (31 and 32) to control the flow of liquid through the space between the rotor and the stator.

Therefore, it would have been obvious to one having skill in the art at the time the invention was made to modify Terada's invention and made a corrugation pattern between the stator and rotor since this would have been desirable for control the liquid flow.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Terada et al. U.S. Patent No. 5,990,247.

Terada disclose the claimed invention except for the strength element (63) is selected from the group consisting of glass, aramid, carbon, polyester and quartz fibers. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Terada's invention and provide a strength element from the group consisting of glass, aramid, carbon, polyester and quartz fibers, since it has been held to be within the general skill of the worker in the art to select a known material on the basis of its suitability for intended use as matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

10. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Terada et al. U.S. Patent No. 5,990,247.

Terada disclose the claimed invention except for the layers of the composite lamina arrangement are made by dry lay-up, resin transfer molding, and wet or preimpregnated filament technique. However no patentable weight has been given to the method of manufacturing limitations (i. e. dry lay-up resin transfer molding, wet and pre-impregnated, and filament winding techniques) since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even

though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

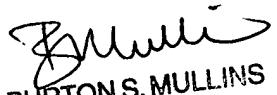
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yahveh Comas whose telephone number is (703) 305-3419. The examiner can normally be reached on M - F 8:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3432.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

YC

  
BURTON S. MULLINS  
PRIMARY EXAMINER